

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

THURSDAY, THE TWENTY FOURTH DAY OF JUNE

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT APPEAL No. 993 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 17/03/2004 in WP No.19 OF 1997 on the file of the High Court.)

Between:

Y.Sarojini Devi @ Nagamani,
Kandipudi Village, Satyavaram P.O.
Payakaraopeta Mandal,
Visakhapatnam District.

..... APPELLANT

AND

- 1 The Director of Settlements, Hyderabad.
- 2 The Joint Collector & Settlement Officer, Visakhapatnam.
- 3 The Mandal Revenue Officer, Payakaraopeta, Visakhapatnam District.

.....RESPONDENT(S)

For the Appellant : MR.V.V.N.NARASIMHAM, Advocate.

For the Respondents : The G.P. FOR REVENUE

The Court Made the Following :

ORAL JUDGMENT: (Per Hon'ble the Chief Justice)

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We have heard learned counsel for the parties and gone through the impugned order passed by the learned single Judge dismissing the writ petition. The appellant-petitioner's case is that an application was filed for grant of ryotwari patta for Ac.1-50 cents of land in R.S.No.123/2 situate in Kandipudi village, Payakaraopeta Mandal, Visakhapatnam district, which was received by the Settlement Officer on 24-05-1986. Since there was delay in presenting of the application, the petitioner had also moved an application seeking condonation of delay. The application was filed under Section 11(a) of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 and the Rules made thereunder. The petition was rejected by the Settlement Officer, Visakhapatnam, by order dated 10th July, 1986 which was affirmed in revision by the Director of Settlements, Andhra Pradesh. Both orders were challenged in the writ petition and the writ petition was also dismissed.

The petitioner in revision before the Director of Settlements alleged in ground No.2 that the Settlement Officer should have considered and disposed of the petitioner's application to condone the delay in filing of the application under Section 11 (a) in exercise of the powers and functions conferred on him under the Rules, but the Director of Settlement did not, in the order, made a mention of the fact whether or not such an application was made. Petitioner's assertion is that such an application was made and the Settlement Officer without taking any decision on such application seeking condonation of delay wherein valid grounds have been made, proceeded to reject the application.

There is no manner of doubt that there is power vested in the authorities to condone the delay which had occurred in not moving the application within the period of limitation and in case such an application was made by the petitioner, there is no reason why the Settlement Officer could not have proceeded firstly to take a decision whether or not the delay be condoned. In case genuine grounds had been made out, in all probability such application would be allowed. Having not dealt with such application, we are of the view that the orders deserve to be set aside with direction to dispose of the application in accordance with law.

The writ appeal is allowed, the impugned order is set aside

with direction to the Settlement Officer, Visakhapatnam, to hear and decide the petitioner's case afresh. In case the petitioner files an application seeking to condone the delay, it has to be decided first and in case the delay is condoned, the Settlement Officer will proceed to decide the petitioner's application on merits. Till the applications for condoning the delay and for grant of patta are heard and decided, *status quo* as on today as regards possession shall be maintained by the parties.

DEVINDER GUPTA, C.J.

G.ROHINI,J

To

- 1 The Director of Settlements, Hyderabad.
- 2 The Joint Collector & Settlement Officer, Visakhapatnam.
- 3 The Mandal Revenue Officer, Payakaraopeta, Visakhapatnam District.
- 4 2 CCs to Govt. Pleader for Revenue, High Court Buildings, Hyderabad (OUT)
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